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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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MHKKG/SUN P.O. BOX 398 AUSTIN, TX 78767			EXAMINER JOO, JOSHUA	
			ART UNIT 2454	PAPER NUMBER
			NOTIFICATION DATE 11/27/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.	Applicant(s)	
10/670,849	SHAH, RAHUL L.	
Examiner	Art Unit	
JOSHUA JOO	2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11-18, 20-28, 30-37, 39-47 and 49-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-18, 20-28, 30-37, 39-47 and 49-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Action

This Office action is in response to Applicant's communication filed on 08/12/2009.

Claims 1-9, 11-18, 20-28, 30-37, 39-47, 49-56 are pending for examination.

Response to Arguments

Applicant's arguments filed 08/14/2009 have been fully considered but they are not persuasive.

Applicant argued that:

(1) Wick fails to explicitly or implicitly disclose transitioning presence states.

In response, Examiner respectfully disagrees. Wick teaches of detecting transition from an unavailable state to an available state (Claim 1; paragraph 0013). In the available state, the user is able to receive messages. Wick does not merely teach of detecting signing on but that the signing on corresponds to being available and detects that a user is available to receive messages. Thus, Wick teaches of transitioning from a presence state of unavailable to a presence state of available.

(2) There is no determination of whether a current presence state matches a specific presence state.

In response, Examiner respectfully disagrees. Wick teaches of associating an instant messaging operation, e.g. alert, with a condition, wherein the condition is a user being available to receive messages. When the user's current presence state is an available state, the current presence state matches the condition set with the instant messaging operation.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the

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conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 8-9, 20, 27-28, 39, 46, and 47 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 12-15, 26-29, 40-42 of copending Application No. 10/670550, in view of Wick, US Publication #2004/0093387 (Wick hereinafter).

Instant Application Claim 1	Copending application #10/670550 Claim 13
A computer-implemented method, comprising: <u>receiving an instant messaging operation directed to a given user, said given user is not offline</u> ; wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger;	<u>receiving an instant messaging operation directed to a given user, wherein said given user is not offline</u> ;
in response to receiving said instant messaging operation, <u>determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state associated with the received instant messaging operation, wherein said current presence state corresponds to said given user</u> ; and	<u>determining said presence state of said instant messenger in response to receiving said instant messaging operation</u> ; and
in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, <u>performing said instant messaging operation</u> ; wherein each of said receiving, said	selectively <u>processing said instant messaging operation</u> dependent upon said presence state in response to said determining.

determining, and said performing is implemented by one or more computer systems.	
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Although the conflicting claims are not identical, they are not patentably distinct from each other because: Regarding the rejection of claim 1 of the instant application, claims 1 and 13 of the copending application do not disclose the features not underlined above for claim 1. However, Wicks teaches the missing features (Paragraphs 0014; 0039-0041). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Wick, which would facilitate messaging between users and enable automatic sending of messages according to sender specified events. Claims 20 and 39, which comprise features similar to claim 1, of the instant application are rejected by claims 15, 27, 29 and 41 of the copending application, in view of Wick, for reasons similar to the rejection of claim 1.

Furthermore, claims 8, 27, and 46 are rejected as being unpatentable over claims 1, 15 and 29, as the claims from the copending application discloses the features of the claims in the instant application. Claims 9, 28, and 47 are rejected as unpatentable over claims 12, 26, and 40 of the copending application as both the claims from the instant and the copending applications comprise substantially similar features.

Claims 11, 17-18, 30, 36-37, 49, 55, and 56 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 12-15, 26-29, 40-42 of copending Application No. 10/670550, in view of Malik, US Patent #7,353,455 (Malik hereinafter).

Instant Application Claim 30	Copending application #10/670550 Claim 28
A computer-accessible storage medium, comprising program instructions, wherein the program instructions are computer-executable to:	The computer-accessible medium as recited in claim 15, wherein said program instructions are further computer-executable to:
<u>store an instant messaging operation associated with a specific presence state of an instant messenger</u> , wherein the specific presence state	<u>store an instant messaging operation associated with a given presence state of an instant messenger</u> , wherein said given presence state corresponds to a

associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger; wherein said specific presence state is selected from a plurality of possible presence states other than a presence state that indicates only that a given user of the instant messenger is online;	<u>given user;</u>
<u>detect a transition of a current presence state of said instant messenger to said given presence state subsequent to said storing; and such that as a result of said transition, the specific presence state becomes visible to other users as indicative of said given user;</u>	<u>detect a transition to said given presence state subsequent to said storing; and</u>
<u>perform said instant messaging operation in response to said detecting.</u>	<u>perform said instant messaging operation in response to said detecting.</u>

Regarding the rejection of claim 30 of the instant application, claims 15 and 28 of the copending application do not disclose the features not underlined above. However, Malik teaches the missing features (col. 5, lines 33-39; col. 7, lines 1-19, 33-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Malik, which would facilitate messaging between users and enable automatic sending of messages according to user specified events. Claims 11 and 49, which comprise features similar to claim 30, of the instant application are rejected under claims 1, 14, 29 and 42 of the copending application, in view of Malik, for reasons similar to the rejection of claim 30.

Furthermore, claims 17, 36, and 55 are rejected as being unpatentable over claims 1, 15, and 29 as the claims from the copending application discloses the features of the claims in the instant application. Claims 18, 37, and 56 are rejected as unpatentable over claims 12, 26, and 40 of the copending application as both the claims from the instant and the copending applications comprise substantially similar features.

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Claims 1, 8-9, 20, 27-28, 39, 46, and 47 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 8-11, 18-21, 28-29, and 30 of copending Application No. 10/670549, in view of Wick.

Instant Application Claim 1	Copending application #10/670549 Claim 9
A computer-implemented method, comprising: <u>receiving an instant messaging operation directed to a given user, said given user is not offline</u> ; wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger;	The method as recited in claim 1, further comprising:
in response to receiving said instant messaging operation, <u>determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state associated with the received instant messaging operation, wherein said current presence state corresponds to said given user; and</u>	<u>receiving an instant messaging operation directed to a given user, wherein said given user is not offline;</u>
in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, <u>performing said instant messaging operation;</u>	<u>determining the presence state specific to said instant messenger in response to receiving said instant messaging operation; and</u>
wherein each of said receiving, said determining, and said performing is implemented by one or more computer systems.	<u>selectively processing said instant messaging operation</u> dependent upon said presence state in response to said determining.

Although the conflicting claims are not identical, they are not patentably distinct from each other because: Regarding the rejection of claim 1 of the instant application, claims 1 and 9 of the copending application do not disclose the features not underlined above. However, Wicks teaches the missing features (Paragraphs 0014; 0039-0041). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Wick, which would facilitate messaging between users and enable automatic sending of messages according to sender

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specified events. Claims 20 and 39, which comprise features similar to claim 1, of the instant application are rejected by claims 11, 19, 21, and 29 of the copending application, in view of Wick, for reasons similar to the rejection of claim 1.

Furthermore, claims 8, 27, and 46 are rejected as being unpatentable over claims 8, 18 and 28, as the claims from the copending application discloses the features of the claims in the instant application. Claims 9, 28, and 47 are rejected as unpatentable over claims 1, 11, and 21 of the copending application as both the claims from the instant and the copending applications comprise substantially similar features.

Claims 11, 17-18, 30, 36-37, 49, 55, and 56 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 8-11, 18-21, 28-29, and 30 of copending Application No. 10/670549, in view of Malik.

Instant Application Claim 30	Copending application #10/670549 Claim 20
A computer-accessible storage medium, comprising program instructions, wherein the program instructions are computer-executable to:	The computer-accessible medium as recited in claim 15, wherein said program instructions are further computer-executable to:
<u>store an instant messaging operation associated with a specific presence state of an instant messenger</u> , wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger; wherein said specific presence state is selected from a plurality of possible presence states other than a presence state that indicates only that a given user of the instant messenger is online;	<u>store an instant messaging operation associated with a given presence state of an instant messenger, wherein said given presence state corresponds to a given user;</u>
<u>detect a transition of a current presence state of said instant messenger to said given presence state subsequent to said storing; and such that as a result of said transition, the specific presence state becomes visible to other users as indicative of said user</u>	<u>detect a transition to said given presence state subsequent to said storing; and</u>
<u>perform said instant messaging operation in response to said detecting.</u>	<u>perform said instant messaging operation in response to said detecting.</u>

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Regarding the rejection of claim 30 of the instant application, claims 15 and 20 of the copending application do not disclose the features not underlined above. However, Malik teaches the missing features (col. 5, lines 33-39; col. 7, lines 1-19, 33-54). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the copending application with the teachings of Wick, which would facilitate messaging between users and enable automatic sending of messages according to sender specified events. Claims 11 and 49, which comprise features similar to claim 30, of the instant application are rejected in view of claims 1, 10, 21, and 30 of the copending application, in view of Malik, for reasons similar to the rejection of claim 30.

Furthermore, claims 17, 36, and 55 are rejected as being unpatentable over claims 8, 18, and 28 as the claims from the copending application discloses the features of the claims in the instant application. Claims 18, 37, and 56 are rejected as unpatentable over claims 1, 11, and 21 of the copending application as both the claims from the instant and the copending applications comprise substantially similar features.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 11-12, 14, 30-31, 33, 49-50, and 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Malik.

As per claim 11, Malik teaches the invention as claimed including a computer-implemented method, comprising:

storing an instant messaging operation associated with a specific presence state of an instant messenger, wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger, wherein said specific presence state is selected from a plurality of possible presence state other than a presence state that indicates only that a given user of the instant messenger is online (col. 5, lines 33-39; col. 7, lines 1-19. Specify alert message with presence state, e.g. available to busy, online to offline.);

detecting a transition of said current presence state assigned to said instant messenger to said specific presence state subsequent to said storing, such that as a result of said transition, the specific presence state becomes visible to other users as indicative of said given user (col. 7, lines 33-36. Detect change in presence state.); and

performing said instant messaging operation in response to said detecting (col. 5, lines 33-36; col. 7, lines 14-20, 46-54. Alert message.).

As per claim 30, Malik teaches the invention as claimed including a computer-accessible storage medium, comprising program instructions, wherein the program instructions are computer-executable to:

storing an instant messaging operation associated with a specific presence state of an instant messenger, wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger, wherein said specific presence state is selected from a plurality of possible presence states other than a presence state that indicates only that a given user of the instant messenger is online (col. 5, lines 33-39; col. 7, lines 1-19. Specify alert message with presence state, e.g. available to busy, online to offline.);

detecting a transition of said current presence state assigned to said instant messenger to said specific presence state subsequent to said storing, such that as a result of said transition, the specific presence state becomes visible to other users as indicative of said given user (col. 7, lines 33-36. Detect change in presence state.); and

performing said instant messaging operation in response to said detecting (col. 5, lines 33-36; col. 7, lines 14-20, 46-54. Alert message.).

As per claim 49, Malik teaches the invention as claimed including a system, comprising:
a memory; and a processor coupled to said memory and configured to execute instructions wherein the instructions are executable to implement an instant messenger;

wherein said instant messenger software module is further configured to:

storing an instant messaging operation associated with a specific presence state of an instant messenger, wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger, wherein said specific presence state is selected from a plurality of possible presence states other than a presence state that indicates only that a given user of the instant messenger is online (col. 5, lines 33-39; col. 7, lines 1-19. Specify alert message with presence state, e.g. available to busy, online to offline.);

detecting a transition of said current presence state assigned to said instant messenger to said specific presence state subsequent to said storing, such that as a result of said transition, the specific presence state becomes visible to other users as indicative of said given user (col. 7, lines 33-36. Detect change in presence state.); and

performing said instant messaging operation in response to said detecting (col. 5, lines 33-36; col. 7, lines 14-20, 46-54. Alert message.).

As per claim 12, Malik teaches the invention as recited in claim 11, wherein said instant messaging operation comprises a chat operation (col. 5, lines 1-2, 47-50; col. 11, lines 2-5. Chat window.).

As per claim 14, Malik teaches the invention as recited in claim 11, wherein said instant messaging operation comprises an alert operation (col. 5, lines 1-2, 47-50. Alert message).

As per claim 31, Malik teaches the invention as recited in claim 30, wherein said instant messaging operation comprises a chat operation (col. 5, lines 1-2, 47-50; col. 11, lines 2-5. Chat window.).

As per claim 33, Malik teaches the invention as recited in claim 30, wherein said instant messaging operation comprises an alert operation (col. 5, lines 1-2, 47-50. Alert message).

As per claim 50, Malik teaches the invention as recited in claim 49, wherein said instant messaging operation comprises a chat operation (col. 5, lines 1-2, 47-50; col. 11, lines 2-5. Chat window.).

As per claim 52, Malik teaches the invention as recited in claim 49, wherein said instant messaging operation comprises an alert operation (col. 5, lines 1-2, 47-50. Alert message).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 15, 17, 32, 34, 36, 51, 53, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malik, in view of Horvitz, US Publication #2002/0087649 (Horvitz hereinafter).

As per claim 13, Malik teaches the invention as recited in claim 12, wherein performing said instant messaging operation comprises initiating said chat operation (col. 5, lines 1-2, 47-50; col. 11, lines 2-5). Malik does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on an idle state (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Malik to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve Malik's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 15, Malik teaches the invention as recited in claim 14, wherein performing said instant messaging operation comprises initiating said alert operation (col. 5, lines 1-2, 47-50; col. 11, lines 2-5). Malik does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on an idle state (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve Malik's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 17, Malik does not specifically teach invention as recited in claim 11, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to detect a computer system activity level indicative of computer system activity, determine whether said activity level exceeds an activity threshold in response to said detecting; and transition said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold. The motivation for the suggested combination is that Horvitz's teachings would improve the Malik's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 32, Malik teaches the invention as recited in claim 31, wherein performing said instant messaging operation comprises initiating said chat operation (col. 5, lines 1-2, 47-50; col. 11, lines 2-5). Malik does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve Malik's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 34, Malik teaches the invention as recited in claim 33, wherein performing said instant messaging operation comprises initiating said alert operation (col. 5, lines 1-2, 47-50; col. 11, lines 2-5). Malik does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings

would improve Malik's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 36, Malik does not specifically teach invention as recited in claim 30, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to detect a computer system activity level indicative of computer system activity, determine whether said activity level exceeds an activity threshold in response to said detecting; and transition said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold. The motivation for the suggested combination is that Horvitz's teachings would improve Malik's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 51, Malik teaches the invention as recited in claim 50, wherein performing said instant messaging operation comprises initiating said chat operation (col. 5, lines 1-2, 47-50; col. 11, lines

2-5). Malik does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve Malik's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 53, Malik teaches the invention as recited in claim 52, wherein performing said instant messaging operation comprises initiating said alert operation (col. 5, lines 1-2, 47-50; col. 11, lines 2-5). Malik does not specifically teach wherein said given presence state is indicative of an idle user state.

Horvitz teaches of a system for notification based on user state, wherein alerting may occur based on a state of non-activity (Paragraph 0267. Threshold on alerting for inferred state. Alerting may occur during idle activity following activity.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the given presence state as taught by Wick to be indicative of an idle user state as taught by Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve Malik's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 55, Malik does not specifically teach invention as recited in claim 49, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to detect a computer system activity level indicative of computer system activity, determine whether said activity level exceeds an activity threshold in response to said detecting; and transition said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold. The motivation for the suggested combination is that Horvitz's teachings would improve Malik's teachings by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

Claim 16, 35, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malik, in view of Cristofalo et al. US Publication #2002/0152117 (Cristofalo hereinafter).

As per claim 16, Malik does not specifically teach the invention as recited in claim 11, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Crisofalo's teachings of providing a poll operation would improve Malik's teachings by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on profiles of users (Paragraph 0005; 0007).

As per claim 35, Malik does not specifically teach the invention as recited in claim 30, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Crisofalo's teachings of providing a poll operation would improve Malik's teachings by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on profiles of users (Paragraph 0005; 0007).

As per claim 54, Malik does not specifically teach the invention as recited in claim 49, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Crisofalo's teachings of providing a poll operation would improve Malik's teachings by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on profiles of users (Paragraph 0005; 0007).

Claim 18, 37, and 56, are rejected under 35 U.S.C. 103(a) as being unpatentable over Malik, in view of Horvitz, US Publication #2008/0104517 (Horvitz '517 hereinafter).

As per claim 18, Malik does not specifically teach the invention as recited in claim 11, further comprising: storing schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; querying said schedule information; and if said current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

Horvitz '517 teaches a system for managing preference in receiving messages, wherein the system comprises of storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063. Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.); querying said schedule information; and if a current presence state of said instant messenger does not

correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user (Paragraph 0063. If a context setting or condition is true as specified on the calendar setting, set state as Busy.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Malik and the above teachings of Horvitz '517. The motivation for the suggested combination is that Horvitz '517's teachings would improve Malik's teachings by utilizing a user's context settings such as a calendar to further define presence and a preference for communication, which allows for establishment of an optimal communication.

As per claim 37, Malik does not specifically teach the invention as recited in claim 30, further comprising: storing schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; querying said schedule information; and if said current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

Horvitz '517 teaches a system for managing preference in receiving messages, wherein the system comprises of storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063. Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.); querying said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence

state and said different presence state each correspond to said given user (Paragraph 0063. If a context setting or condition is true as specified on the calendar setting, set state as Busy.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Malik and the above teachings of Horvitz '517. The motivation for the suggested combination is that Horvitz '517's teachings would improve Malik's teachings by utilizing a user's context settings such as a calendar to further define presence and a preference for communication, which allows for establishment of an optimal communication.

As per claim 56, Malik does not specifically teach the invention as recited in claim 49, further comprising: storing schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; querying said schedule information; and if said current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

Horvitz '517 teaches a system for managing preference in receiving messages, wherein the system comprises of storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063. Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.); querying said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user (Paragraph 0063. If a context setting or condition is true as specified on the calendar setting, set state as Busy.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Malik and the above teachings of Horvitz '517. The motivation for the suggested combination is that Horvitz '517's teachings would improve Malik's teachings by utilizing a user's context settings such as a calendar to further define presence and a preference for communication, which allows for establishment of an optimal communication.

Claims 1-3, 5, 7, 20-22, 24, 26, 39-41, 43, 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick, in view of Seshadri et al. US Patent #7,209,916 (Seshadri hereinafter).

As per claim 1, Wick teaches substantially the invention as claimed including a computer-implemented method, comprising:

receiving an instant messaging operation directed to a given user and wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Pounce is sent at specified event, e.g. when user is available.);

in response to receiving said instant messaging operation, determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state associated with the received instant messaging operation, wherein said current presence state corresponds to said given user (Paragraphs 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on.); and

in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, performing said instant messaging operation (Paragraphs 0039; 0043. Execute pounce at specified event. Pounce may include alerting, sending IM, open conversation window.);

wherein each of said receiving, said determining, and said performing is implemented by one or more computer systems (Paragraph 0061. Implement in computer hardware and/or software.).

While Wick teaches of sending an instant messaging operation and performing the instant messaging operation at a specified event, Wick does not specifically teach of sending the instant messaging operation wherein said given user is not offline.

Seshadri teaches of sending messages to a given user, wherein the given user is not offline (col. 4, lines 10-22; col. 5, lines 25-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to receive an instant messaging operation directed to a given user as taught by Wick, wherein the given user is not offline as taught by Seshadri. The motivation for the suggested combination is that Seshadri's teachings would improve Wick's teachings by enabling actions according various preferences and user states.

As per claim 20, Wick teaches substantially the invention as claimed including a computer-accessible storage medium, comprising program instructions, wherein the program instructions are computer-executable to:

receiving an instant messaging operation directed to a given user and wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Pounce is sent at specified event, e.g. when user is available.);

in response to receiving said instant messaging operation, determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state associated with the received instant messaging operation, wherein said current presence state corresponds

to said given user (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on.); and

in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, performing said instant messaging operation (Paragraphs 0039; 0043. Execute pounce at specified event. Pounce may include alerting, sending IM, open conversation window.);

wherein each of said receiving, said determining, and said performing is implemented by one or more computer systems (Paragraph 0061. Implement in computer hardware and/or software.).

While Wick teaches of sending an instant messaging operation and performing the instant messaging operation at a specified event, Wick does not specifically teach of sending the instant messaging operation wherein said given user is not offline.

Seshadri teaches of sending messages to a given user, wherein the given user is not offline (col. 4, lines 10-22; col. 5, lines 25-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to receive an instant messaging operation directed to a given user as taught by Wick, wherein the given user is not offline as taught by Seshadri. The motivation for the suggested combination is that Seshadri's teachings would improve Wick's teachings by enabling actions according various preferences and user states.

As per claim 39, Wick teaches substantially the invention as claimed including a system, comprising:

a memory; and a processor coupled to said memory and configured to execute instructions, wherein the instructions are executable to implement an instant messenger software module (Paragraph 0061. Implement in computer hardware and/or software.);

wherein said instant messenger software module is further configured to:

receiving an instant messaging operation directed to a given user and wherein said instant messaging operation is associated with a specific presence state of an instant messenger, and wherein the specific presence state associated with the received instant messaging operation is determined separately from a current presence state that is currently assigned to the instant messenger (Paragraph 0041. Queue pounce. Paragraphs 0014; 0040. Pounce is sent at specified event, e.g. when user is available.);

in response to receiving said instant messaging operation, determining whether the current presence state that is currently assigned to said instant messenger matches the specific presence state associated with the received instant messaging operation, wherein said current presence state corresponds to said given user (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on.); and

in response to determining that said specific presence state of the received instant messaging operation matches said current presence state assigned to said instant messenger, performing said instant messaging operation (Paragraphs 0039; 0043. Execute pounce at specified event. Pounce may include alerting, sending IM, open conversation window.);

wherein each of said receiving, said determining, and said performing is implemented by one or more computer systems (Paragraph 0061. Implement in computer hardware and/or software.).

While Wick teaches of sending an instant messaging operation and performing the instant messaging operation at a specified event, Wick does not specifically teach of sending the instant messaging operation wherein said given user is not offline.

Seshadri teaches of sending messages to a given user, wherein the given user is not offline (col. 4, lines 10-22; col. 5, lines 25-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to receive an instant messaging operation directed to a given user as taught by

Wick, wherein the given user is not offline as taught by Seshadri. The motivation for the suggested combination is that Seshadri's teachings would improve Wick's teachings by enabling actions according various preferences and user states.

As per claim 2, Wick teaches the method as recited in claim 1, wherein said instant messaging operation comprises a chat operation (Paragraph 0040. Chat invitation, IM.).

As per claim 3, Wick teaches the method as recited in claim 1, wherein said instant messaging operation comprises an alert operation (Paragraphs 0040; 0042. Notification, alarm.).

As per claim 5, Wick teaches the method as recited in claim 1, further comprising: in response to determining that said specific presence state of the received instant messaging operation does not match said current presence state assigned to said instant messenger, queuing said instant messaging operation (Paragraph 0041. Pounce is queued pending occurrence of specified event.).

As per claim 7, Wick teaches the method as recited in claim 5, further comprising: subsequent to queuing said instant messaging operation, detecting a transition of said current presence state to said instant messenger to a presence state that matches the specific presence state associated with the instant messaging operation; and performing the queued instant messaging operation in response to detecting said transition (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on. Paragraphs 0039; 0043. Execute pounce at specified event.).

As per claim 21, Wick teaches the invention as recited in claim 20, wherein said instant messaging operation comprises a chat operation (Paragraph 0040. Chat invitation, IM.).

As per claim 22, Wick teaches the invention as recited in claims 20, wherein said instant messaging operation comprises an alert operation (Paragraphs 0040; 0042. Notification, alarm.).

As per claim 24, Wick teaches the computer-accessible storage medium as recited in claim 20, wherein said program instructions are further computer-executable to: in response to determining that said specific presence state of the received instant messaging operation does not match said current presence state assigned to said instant messenger, queuing said instant messaging operation (Paragraph 0041. Pounce is queued pending occurrence of specified event.).

As per claim 26, Wick teaches the computer-accessible storage medium as recited in claim 24, wherein said program instructions are further computer-executable to: subsequent to queuing said instant messaging operation, detecting a transition of said current presence state to said instant messenger to a presence state that matches the specific presence state associated with the instant messaging operation; and performing the queued instant messaging operation in response to detecting said transition (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on. Paragraphs 0039; 0043. Execute pounce at specified event.).

As per claim 40, Wick teaches the invention as recited in claim 39, wherein said instant messaging operation comprises a chat operation (Paragraph 0040. Chat invitation, IM.).

As per claim 41, Wick teaches the invention as recited in claim 39, wherein said instant messaging operation comprises an alert operation (Paragraphs 0040; 0042. Notification, alarm.).

As per claim 43, Wick teaches the system as recited in claim 39, wherein said instant messenger software module is further configured to: in response to determining that said specific presence state of the received instant messaging operation does not match said current presence state assigned to said instant messenger, queuing said instant messaging operation (Paragraph 0041. Pounce is queued pending occurrence of specified event.).

As per claim 45, Wick teaches the system as recited in claim 43, wherein said instant messenger software module is further configured to: subsequent to queuing said instant messaging operation, detecting a transition of said current presence state to said instant messenger to a presence state that matches the specific presence state associated with the instant messaging operation; and performing the queued instant messaging operation in response to detecting said transition (Paragraph 0043. Detect occurrence of specified event. Paragraph 0040. Event such as signing on. Paragraphs 0039; 0043. Execute pounce at specified event.).

Claim 4, 23, 42, are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick and Seshadri, in view of Cristofalo.

As per claim 4, Wick does not specifically teach the invention as recited in claim 1, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Cristofalo's

teachings of providing a poll operation would improve the suggested system by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on the users' profile (Paragraphs 0005; 0007).

As per claim 23, Wick does not specifically teach the invention as recited in claim 20, wherein said instant messaging operation comprises a poll operation.

Crisofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Cristofalo's teachings of providing a poll operation would improve the suggested system by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on the users' profile (Paragraphs 0005; 0007).

As per claim, 42, Wick does not specifically teach the invention as recited in claim 39, wherein said instant messaging operation comprises a poll operation.

Cristofalo teaches of providing an instant messaging operation comprising a poll operation (Paragraph 0023. Media object relates to polling question. Bi-directional communications via instant messaging. Claims 58, 60. Chat/Instant messaging interface utilizes media object.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings for the instant messaging operation as taught by Wick to comprise a poll operation as taught by Cristofalo. The motivation for the suggested combination is that Cristofalo's

teachings of providing a poll operation would improve the suggested system by enabling a sender to specify an additional action and allowing users to receive customized information such as advertisements based on the users' profile (Paragraphs 0005; 0007).

Claims 6, 25, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick and Seshadri, in view of Beyda, US Publication #2003/0229722 (Beyda hereinafter).

As per claim 6, Wick teach the invention as recited in claim 5, wherein said instant messaging operation is a chat operation initiated by a second user, and queuing said instant messaging operation (Paragraphs 0014, 0040, 0041). Wick does not specifically teach the method further comprises notifying said second user of said queuing.

Beyda teaches a system for processing instant messages, wherein a sender is notified of a queued instant message (Paragraphs 0043; 0048. Notification sent to the sender that the instant message has been stored.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to notify the sender of a queued instant message. The motivation for the suggested combination is that Beyda's teachings would improve the suggested system by enabling the sender to be informed of the status of sent messages.

As per claim 25, Wick teach the invention as recited in claim 24, wherein said instant messaging operation is a chat operation initiated by a second user, and queuing said instant messaging operation (Paragraphs 0014, 0040, 0041). Wick does not specifically teach the method further comprises notifying said second user of said queuing.

Beyda teaches a system for processing instant messages, wherein a sender is notified of a queued instant message (Paragraphs 0043; 0048. Notification sent to the sender that the instant message has been stored.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to notify the sender of a queued instant message. The motivation for the suggested combination is that Beyda's teachings would improve the suggested system by enabling the sender to be informed of the status of sent messages.

As per claim 44, Wick teach the invention as recited in claim 43, wherein said instant messaging operation is a chat operation initiated by a second user, and queuing said instant messaging operation (Paragraphs 0014, 0040, 0041). Wick does not specifically teach the method further comprises notifying said second user of said queuing.

Beyda teaches a system for processing instant messages, wherein a sender is notified of a queued instant message (Paragraphs 0043; 0048. Notification sent to the sender that the instant message has been stored.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings to notify the sender of a queued instant message. The motivation for the suggested combination is that Beyda's teachings would improve the suggested system by enabling the sender to be informed of the status of sent messages.

Claims 8, 27, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick and Seshadri, in view of Horvitz.

As per claim 8, Wick does not specifically teach invention as recited in claim 1, further comprising: detecting a computer system activity level indicative of computer system activity;

determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wick and Seshadri with the above teachings of Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve the suggested system by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 27, Wick does not specifically teach invention as recited in claim 20, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity

threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wick and Seshadri with the above teachings of Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve the suggested system by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

As per claim 46, Wick does not specifically teach invention as recited in claim 39, further comprising: detecting a computer system activity level indicative of computer system activity; determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said current presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold.

Horvitz teaches of detecting a computer system activity level indicative of computer system activity (Paragraphs 0264-0265. Assess user activity.), determining whether said activity level exceeds an activity threshold in response to said detecting; and transitioning said presence state of said instant messenger to a busy state in response to determining that said activity level exceeds said activity threshold (Paragraphs 0264-0265. Determine how busy a user is. Paragraph 288. Observation about user activity may determine user state, which includes whether user is busy.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wick and Seshadri with the above teachings of Horvitz. The motivation for the suggested combination is that Horvitz's teachings would improve the suggested system by allowing notification of messages while reducing disruption to users as suggested by Horvitz (Paragraph 0008).

Claims 9, 28, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wick and Seshadri, in view of Horvitz '517.

As per claim 9, Wick does not specifically teach the invention as recited in claim 1, further comprising: storing schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; querying said schedule information; and if said current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

Horvitz '517 teaches a system for managing preference in receiving messages, wherein the system comprises of storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063. Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.); querying said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user (Paragraph 0063. If a context setting or condition is true as specified on the calendar setting, set state as Busy.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wick and Seshadri with the above teachings of Horvitz '517. The motivation for the suggested combination is that Horvitz '517's teachings would improve the suggested system by utilizing a user's context settings such as a calendar to further define a preference for communication, which allows for establishment of an optimal communication.

As per claim 28, Wick does not specifically teach the invention as recited in claim 20, further comprising: storing schedule information corresponding to said given user, wherein said schedule information is indicative of an activity status of said given user at a given time; querying said schedule information; and if said current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

Horvitz '517 teaches a system for managing preference in receiving messages, wherein the system comprises of storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063. Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.); querying said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user (Paragraph 0063. If a context setting or condition is true as specified on the calendar setting, set state as Busy.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wick and Seshadri with the above teachings of Horvitz '517. The motivation for the suggested combination is that Horvitz '517's teachings would improve the suggested system by utilizing a user's context settings such as a calendar to further define a preference for communication, which allows for establishment of an optimal communication.

As per claim 47, Wick does not specifically teach the invention as recited in claim 39, further comprising: storing schedule information corresponding to said given user, wherein said schedule

information is indicative of an activity status of said given user at a given time; querying said schedule information; and if said current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user.

Horvitz '517 teaches a system for managing preference in receiving messages, wherein the system comprises of storing schedule information corresponding to a given user, wherein said schedule information is indicative of an activity status of said given user at a given time (Paragraph 0063. Calendar setting indicates status. Paragraph 0153. Calendar may include status and availability.); querying said schedule information; and if a current presence state of said instant messenger does not correspond to said activity status indicated by said schedule information, assigning a different presence state that corresponds to said activity status in response to said querying, wherein said current presence state and said different presence state each correspond to said given user (Paragraph 0063. If a context setting or condition is true as specified on the calendar setting, set state as Busy.).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Wick and Seshadri with the above teachings of Horvitz '517. The motivation for the suggested combination is that Horvitz '517's teachings would improve the suggested system by utilizing a user's context settings such as a calendar to further define a preference for communication, which allows for establishment of an optimal communication.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Friday 7 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on 571 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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